

MEMORANDUM

TO: Bill Storm, Project Manager
FROM: Peter McLaughlin, Chair - Hennepin County Regional Railroad Authority
Mark Stenglein, Hennepin County Commissioner
RE: Comments of the Hennepin County Railroad Authority and Hennepin
County
DATE: March 10, 2010

In the Matter of the Application for a HVTL Route Permit for the Hiawatha Transmission Project

OAH 15-2500-20599-2
MPUC No. E002/TL-09-38

As noted in previous correspondence, the Hennepin County Regional Railroad Authority and Hennepin County support the placement of the high voltage transmission lines underground and request the additional costs be spread to the five state service area of Xcel. We have reviewed the Draft Environmental Impact Study (DEIS) prepared by the Office of Energy Security. While we appreciate the time and effort that has gone into preparing this document and agree with many of the observations and comments, we offer the following comments as to where the DEIS inadequately addresses impacts resulting from placement of overhead high voltage transmission lines through the heart of south Minneapolis.

The DEIS fails to adequately address the impacts of a "no development" zone created by the placement of overhead high voltage transmission lines.

The DEIS includes thoughtful discussions about the visual impact of overhead transmission line towers to surrounding areas, and the potential limitations they may place on existing and future uses of property (p. 9-10; impact summary p. 18; p. 190-191). The notion, however, that landscaping and vegetation can minimize the visual impact (p. 9) of overhead towers 75-115 feet tall and 36-58 inches at the base is unsupported. The effects of landscaping and vegetation would be so minimal that we request those comments be stricken as inadequately addressing the impact.

The report acknowledges that a potential impact of overhead high voltage transmission lines includes "perceived loss of property values" (p. 10) without adequately addressing the impact of such perception. Property values are set by the marketplace. In the future, when property owners along the Greenway seek to sell their property, the selling price will be set by potential buyers' perceptions of value. The buyers' perceived value of property will result in real economic impacts to property owners. In other words, in an open marketplace, perceived property values are real property values and the report must discuss this impact as such. Describing

the impact to property values as "perceived" implies that there really is no economic impact and is an inadequate analysis of the economic impacts resulting from overhead HVTL construction.

The DEIS fails to adequately address the negative visual impact that overhead towers 75 to 115 feet tall and 36 to 58 inches wide at the base would have on the financial feasibility of new higher density housing developments. Views from housing units have a significant impact on value, whether the project is rental or ownership housing. Units in the vicinity of the Greenway that would potentially have obstructed or partially obstructed downtown or Greenway views due to high voltage transmission line towers would certainly see a decrease in value, and will likely take longer to lease or sell. Developers are likely to evaluate these factors during the predevelopment phase. While it is impossible to predict the precise impacts, these factors can decrease rent or sales revenues especially where alternative competing locations don't have such visual impairments. This will result in increased carrying costs and decreased financial feasibility for projects located within the vicinity of the overhead high voltage transmission towers.

Given the track record of housing in the Greenway vicinity, future high density housing is likely, but will likely consist of a mix of affordable and market-rate units rather than high end housing. Development feasibility, therefore, will be sensitive to even small cost or revenue impacts. While the DEIS points out in the summary table that the project "could discourage high density residential development" (p. 19), the DEIS should more thoroughly analyze these types of impacts to the feasibility of future development. Such analysis will likely contradict DEIS statements that the transmission lines would not limit or prevent additional residential development.

The DEIS points out that the issue of the overhead high voltage tower "fall distance" may impact "residential property values and their ability to acquire Federal Housing Authority (FHA) loans" (p. 18.). The issue of fall distance not only precludes the availability of FHA loans for single family home purchasers, it also precludes the ability of developers to obtain HUD-backed mortgages to finance higher density residential and/or mixed-use developments. HUD-backed financing plays a role in the vast majority of higher density residential and mixed-use development projects in the metro region. Recently, HUD rejected financing for a project along the Hiawatha corridor emphatically stating that "overhead high voltage transmission lines are too close to the proposed building to be acceptable under HUD Compliance Standards."¹ The rejection places significant doubt on the proposition that a letter from Xcel Energy would solve the financing problem of being located within the fall zone, given other difficulties associated with development in the area. Instead, the HUD denial letter supports the proposition that location within the fall zone of an overhead high voltage transmission line will too often significantly compound with other flaws and prevent development.

¹ See Attachment A - Letter to Mr. Timothy Duncan from the U.S. Department of Housing and Urban Development.

It effectively creates a "no development" zone around the overhead high voltage transmission lines proposed by Xcel. Hennepin County has invested over 30 million dollars in infrastructure and related improvements in the Midtown Greenway Corridor in order to promote economic development and, in turn, to increase the overall tax base to the benefit of Hennepin County residents and workers. Eliminating the potential for high density residential development adjacent to overhead high voltage transmission lines severely limits the development and tax base enhancing potential of this corridor. We request that the DEIS recognize that overhead high voltage tower fall distance will negatively impact residential property values and negatively impact the ability of developers to acquire FHA loans and accordingly negatively impact the ability to develop property along the corridor in a manner envisioned by the various development plans for the area.

In light of the above factors, the DEIS statement that "The Transmission line route alternatives would not limit the type of development, zoning designation, or land use that could occur" (p. 124) should be revised. It would be more accurate to state that underground alternatives will not limit the type of development, zoning designation, or land use that has been planned or would otherwise occur-- and that overhead routing will limit such development. The DEIS should include a more thorough discussion of the broad role that HUD financing plays in the types of development planned for this corridor, and therefore the broader negative impact of overhead high voltage transmission lines on future development.

The DEIS fails to adequately address historical impacts created by the placement of overhead high voltage transmission lines.

In the discussion on archaeological and historical resources, the DEIS erroneously and inadequately relies on the "800 List" to identify properties that are potentially eligible for historic designation by the City of Minneapolis. As noted by Greg Mathis, a Senior Architectural Historian and Preservation Planner of the 106 Group, the "800 List" was created 29 years ago in 1981, has never been updated, and thus, is vastly out of date and does not include properties that could have become significant over the last 29 years. The "800 List" effectively ceased to exist in 2001 when the City of Minneapolis adopted a new heritage preservation ordinance (Minneapolis Code of Ordinances, Chapter 599) that allowed the City to review properties individually and as groups to determine their potential significance and eligibility for historic designation by the City. Many properties on the "800 List" have been demolished, many more have changed over time and may have lost their historical integrity so that they would no longer be eligible for historic designation, and more importantly, many properties that are not on the "800 List" have been evaluated by the City of Minneapolis and been determined eligible for historic designation by the City.

Another concern in the discussion on archaeological and historical resources is the study area for the project. The DEIS fails to adequately define the affected area. Again as noted by Greg Mathis, the DEIS identifies what it terms an "affected

environment” and identifies an area for it; however, there is no rationale provided, the verbal description does not match the maps, and portions of the project, especially in the circumstance of the Hiawatha Substation which will be visible well beyond 0.1 mile as specified in the DEIS. An area of potential effects defined by the DEIS should adequately account for any physical, auditory, atmospheric, or visual impacts to historic properties, but it fails to do so.

In addition, based on a review by Mr. Mathis, Hennepin County has concerns that the cultural resource assessment did not adequately look at route alternatives individually, but only at proposed route alignments in one large area. In its application to the PUC, Xcel proposed, as part of the environmental review process, to conduct a pedestrian level cultural resource study on the selected route in order to determine the full extent of the impact on architectural historical resources. It’s the position of Hennepin County that additional work is needed for each of the individual alternatives. An area of potential effects must first be adequately identified and a thorough cultural resource investigation must then be completed for the DEIS to be adequate.

Clarification of the purpose of acquisition of the 29th Street Railroad Corridor is requested.

In Section 5.3.1.4 at page 145 of the DEIS, a statement about the purpose of Hennepin County Regional Railroad Authority’s acquisition of the 29th Street Corridor (Trench or Midtown Greenway) should be clarified. The Hennepin County Regional Railroad Authority acquired the railroad corridor for future transit and other transportation uses. On the 29th Street Railroad Corridor as with all of HCRRA’s railroad corridors, bike usage is a complementary use.

In addition, for the purpose of clarification, placement of a high voltage transmission line on Hennepin County Regional Railroad Authority property will require consent of, and successful negotiation with, the Hennepin County Regional Railroad Authority as the property owner. Any placement of the proposed high voltage transmission line on the 29th Street Railroad Corridor may not conflict with the prior public uses for which the 29th Street Railroad Corridor was acquired and has been dedicated, including preservation for future rail and other transportation uses, historic preservation, a catalyst for economic development and for permitted bicycle trail uses by the City of Minneapolis. Unlike placement in roadway right of way where Xcel has certain statutory rights of use, no similar right of use exists over rail corridors acquired by regional railroad authorities for the placement of high voltage transmission lines. Accordingly, absent consent of the Hennepin County Regional Railroad Authority or a final non-appealable judgment allowing the successful exercise of eminent domain by Xcel over the 29th Street Railroad Corridor, the 29th Street Railroad Corridor is not available as an alternative route for the high voltage transmission lines proposed by Xcel.